

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL BURNHART,

Plaintiff,

v.

ROBERT MASKO *et al.*,

Defendants,

Case No. C07-5045FDB

REPORT AND
RECOMMENDATION

**NOTED FOR:
May 18, 2007**

This 42 U.S.C. § 1983 Civil Rights has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. This action was filed in March of 2006. (Dkt. # 1).

Plaintiff filed a lengthy complaint that violated Fed. R. Civ. P. 8 (a) (Dkt. # 7). An order to file an amended complaint was filed on March 13, 2007 (Dkt. # 8). That order gave plaintiff until April 20, 2007 to file an amended complaint. As of April 25, 2007 nothing has been filed.

Plaintiff has not complied with the court's order to amend. The court recommends the action be **DISMISSED WITH PREJUDICE** for the reasons stated in the order to amend and for failure to comply with a court order. (Dkt. # 8). A proposed order accompanies this Report and Recommendation. This dismissal will count as a strike under 28 U.S.C. 1915 (g).

1 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
2 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
3 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
4 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
5 set the matter for consideration on **May 18, 2007**, as noted in the caption.

6
7 DATED this 27 day of April, 2007.

8 /S/ J. Kelley Arnold
9 J. Kelley Arnold
10 United States Magistrate Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28